

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)	
UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-10288-RWZ
)	
JOSEPH ALLEN,)	
Defendant)	
)	

GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION TO
MODIFY CONDITIONS OF RELEASE

Now comes the United States, by its attorneys, Michael J. Sullivan, United States Attorney, and David G. Tobin, Assistant U.S. Attorney, and hereby moves this Honorable Court to deny the Defendant's most recent Motion To Modify Conditions of Release. The defendant seeks to have the Court eliminate the requirements of home incarceration and electronic monitoring.

On July 12, 2004, the Court (M.J. Swartwood) entered an order of detention with respect to the defendant. In the Court's Memorandum of Probable Cause and Order of Detention [hereinafter Order of Detention] the Court noted that the defendant "has a significant prior criminal record including seven convictions for assault and battery." [Order of Detention, p. 14] The Court also noted that "[o]n multiple occasions, Mr. Allen has assaulted individuals for no apparent reason and on one of these occasions, the victim required reconstructive surgery to his face." [Order of Detention, p. 17] The Court further noted that the defendant "has a lengthy history of violating the terms of his probation...

[and] is clearly a violent individual who poses a significant risk to the community." [Order of Detention, pages 17 & 18] Ultimately, the Court found "by clear and convincing evidence that there are no conditions or combination of conditions that would assure the safety of the community if Mr. Allen were released." [Order of Detention, p. 18]

In July 2004, counsel for the defendant filed Defendant's Motion to Revoke Detention Order. On August 6, 2004, the United States filed a Memorandum in Opposition to Defendant's Motion to Revoke Detention. On August 10, 2004, the Court (J. Zobel) ordered the release of the defendant, but imposed home incarceration and electronic monitoring.

The United States respectfully requests that the Court deny the defendant's motion to eliminate home incarceration and electronic monitoring. As noted by the Court, the defendant has a long history of unprovoked violence. He remains a threat to the safety and well-being of individuals in the community. His release from home incarceration endangers the safety of individuals who might come in contact with the defendant. Moreover, the defendant's record of probation violations is additional evidence that he can not be trusted in the community.

CONCLUSION

The United States respectfully submits that the defendant remains a threat to the community, and asks the Court to deny the

defendant's motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ David G. Tobin
DAVID G. TOBIN
Assistant U.S. Attorney

June 3, 2005